

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair  
Commissioner  
Commissioner  
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Commissioner

In the Matter of the Review of the 2004 Annual  
Automatic Adjustment Reports for All Natural  
Gas and Electric Utilities and the 2004  
Purchased Gas Adjustment True-up Filings for  
All Natural Gas Utilities

ISSUE DATE: December 7, 2005

DOCKET NO. G,E-999/AA-04-1279

ORDER ACTING ON GAS AND ELECTRIC  
UTILITIES' 2004 ANNUAL AUTOMATIC  
ADJUSTMENT REPORTS AND SETTING  
FURTHER REQUIREMENTS

**PROCEDURAL HISTORY**

**I. Introduction**

Under Minn. Rules 7825.2390 through 7825.2920, rate-regulated gas and electric utilities may adjust their rates between general rate cases to reflect fluctuations in the prices they pay for gas or electricity purchased for delivery to ratepayers, or for fuel purchased to generate electricity for ratepayers. These adjustments are called automatic adjustments, since they normally take effect without prior Commission approval.

The rules require utilities to make detailed filings supporting each automatic adjustment. They also require utilities to make comprehensive annual filings reporting on all automatic adjustments made during the twelve-month period between July 1 of the previous year and June 30 of the reporting year.

At its meeting of October 20, 2005, the Commission took up the annual reports filed by all rate-regulated gas and electric utilities for the 2003-2004 reporting year.

**II. The Parties**

The electric utilities listed below were required to file, and did file, annual automatic adjustment reports for the 2003-2004 reporting year.

- Dakota Electric Association

- Interstate Power and Light Company – Electric Utility
- Minnesota Power Company
- Otter Tail Power Company
- Northern States Power Company d/b/a Xcel Energy - Electric Utility

The natural gas utilities listed below were required to file, and did file, annual automatic adjustment reports and annual true-up filings for the 2003-2004 reporting year.

- Great Plains Natural Gas Company
- Greater Minnesota Gas, Inc.
- Interstate Power and Light Company – Gas Utility
- Aquila Networks – PNG, a division of Aquila, Inc.
- Aquila Networks – NMU, a division of Aquila, Inc.
- CenterPoint Energy Minnegasco
- Northern States Power Company d/b/a Xcel Energy – Gas Utility

The Department of Commerce (the Department) examined the companies' filings in detail and filed both company-specific and broad-based policy comments and recommendations. Several companies revised or supplemented their filings based on the Department's comments, and the Department revised and supplemented its recommendations based on the companies' supplemental filings. There were no contested issues by the time the filings came before the Commission.

## **FINDINGS AND CONCLUSIONS**

### **I. The Filing Requirements**

The automatic adjustment rules require that each annual report include at least the information set forth below.

#### ***Minn. Rules 7825.2800***

- all utilities' procurement policies;
- electric utilities' dispatching policies;
- for gas utilities, a summary of actions taken to minimize costs, including conservation actions.

#### ***Minn. Rules 7825.2810***

- detailed information on all automatic adjustments made during each month of the reporting year for each customer class;
- total cost of fuel, or total cost of gas delivered to customers, during the reporting year;
- total revenues collected from customers for energy delivered;

- detailed information on all billing adjustments, supplier refunds, and any refunds credited to customers;
- for gas utilities, a list of all Purchased Gas Adjustment rule variances requested or in effect during the reporting year, together with an explanation of why they were necessary;
- for gas utilities, a list of changes in contract demand which occurred during the reporting year and the reasons for those changes;
- for gas utilities, disclosure of the levels of customer-owned gas volumes delivered through the utility's distribution system under retail transportation tariffs during the reporting year;
- for gas utilities, an explanation of deviations between gas cost recovery and actual gas costs during the reporting year.

***Minn. Rules 7825.2820***

- an independent auditor's report evaluating the utility's accounting for automatic adjustments for the reporting year.

***Minn. Rules 7825.2830***

- for electric utilities, a five-year projection of fuel costs by energy source;
- for gas utilities, a brief statement of the utility's opinion on the impact of market forces on gas costs for the coming year.

***Minn. Rules 7825.2700, subp. 7 and 7825.2910, subp. 4***

- for gas utilities, a plan to true-up, over the course of the next twelve months, discrepancies between gas costs actually incurred for each customer class and revenues collected from each customer class.

## **II. Action on the Electric Utilities' Filings**

### **A. Filings Accepted**

The Department reported that all utilities, at least by the time of their final filings, had complied with the procedural and substantive requirements of the automatic adjustment statute and rules, as well as previous Commission Orders addressing automatic adjustment issues. The Department recommended accepting and approving the annual reports and the compliance filings accompanying them, with the exception of those filed by Otter Tail Power.

The Department recommended accepting Otter Tail's filings conditionally, subject to a later finding that there is no connection between alleged accounting irregularities under investigation in another pending case<sup>1</sup> and the fuel clause accounting at issue here.

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<sup>1</sup> *In the Matter of Otter Tail Power Company Report on a Call to Ethics Hotline*, Docket No. E-017/M-04-1751.

The Commission concurs in the Department's findings and accepts and approves the reports and the associated compliance filings, with the exception of Otter Tail's, which are accepted and approved conditionally.

**B. Variances Granted to Interstate Power and Light**

**1. Credits for Sulfur Dioxide Emission Allowances**

Interstate Power and Light Company has been using the fuel clause adjustment to pass through to ratepayers credits received from the sale of sulfur dioxide emission allowances. The Department found this a reasonable and equitable means of dealing with the credits, but suggested that Interstate might need a rule variance to use the fuel clause for this purpose.

The Commission agrees. While these emissions allowances do not meet the rules' technical definition of revenues qualifying for pass-through,<sup>2</sup> they do meet the purpose of the rules' pass-through provisions. The Commission will therefore vary Minn. Rules 7825.2500 to permit the inclusion of these credits in the fuel clause adjustment, making the three findings required under Minn. Rules 7829.3200, subp.1:

- A. Enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule; it would delay ratepayers' receipt of credits to which they are entitled and which would lower their energy costs.
- B. Granting the variance would not adversely affect the public interest; it would serve the public interest by permitting prompt crediting of amounts due ratepayers.
- C. Granting the variance would not conflict with standards imposed by law.

Under Minn. Rules 7829.3200, subp. 3, variances expire in one year unless otherwise provided by Commission Order. Here one year may not be adequate. The Commission has begun an industry-wide examination of the continuing usefulness of the fuel clause adjustment in light of structural change in the electric industry.<sup>3</sup> This investigation may not be concluded by the end of the 2006 annual automatic adjustment reporting period, and it would not be a good use of resources to re-examine the merits of this variance while that investigation is pending. The Commission will therefore set the expiration date of this variance at the earlier of two dates: December 31, 2006 or the date on which the industry-wide investigatory docket is concluded.

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<sup>2</sup> Minn. Rules 7825.2400, subp. 9.

<sup>3</sup> *In the Matter of the Commission's Investigation into the Appropriateness of Continuing to Permit Electric Energy Cost Adjustments*, Docket No. E-999/CI-03-802.

Finally, the Commission notes that this variance applies only to *credits* associated with emissions allowances; the Company and the Department have agreed that any decision to pass through *costs* would require prior notice, which would likely lead to a miscellaneous tariff filing developing the issues surrounding the proposed pass-through. The Commission concurs with the Department that any pass-through that both falls outside the technical boundaries of the rule *and* carries an adverse rate impact requires more careful scrutiny than this multi-issue, multi-company proceeding permits.

## **2. Credits for Cost of Fuel Used to Produce Steam**

Interstate has also been using the fuel clause adjustment to pass through to ratepayers credits connected with the cost of fuel used to produce steam for other parties, which is then used to produce electricity. Again, the Department found this a workable and reasonable means of dealing with the credits, but suggested that it might lie outside the technical boundaries of the rules, requiring a variance for it to continue.

The Commission agrees. While these credits do not meet the rules' technical definition of revenues qualifying for pass-through,<sup>4</sup> they, too, meet the purpose of the rules' pass-through provisions. The Commission will therefore vary Minn. Rules 7825.2500 to permit the inclusion of these credits in the fuel clause adjustment, making the three findings required under Minn. Rules 7829.3200, subp.1:

- A. Enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule; it would delay ratepayers' receipt of credits to which they are entitled and which would lower their energy costs.
- B. Granting the variance would not adversely affect the public interest; it would serve the public interest by permitting prompt crediting of amounts due ratepayers.
- C. Granting the variance would not conflict with standards imposed by law.

Finally, the Commission notes that this variance, too, applies only to *credits* associated with the cost of fuel for steam production. Again, the Company and the Department have agreed that any decision to pass through *costs* would require prior notice, which would likely lead to a miscellaneous tariff filing developing the issues surrounding the pass-through of such costs. And here, too, the Commission concurs with the Department that any pass-through that both falls outside the technical boundaries of the rule *and* carries an adverse rate impact requires more careful scrutiny than this multi-issue, multi-company proceeding permits.

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<sup>4</sup> Minn. Rules 7825.2400, subp. 9.

### **C. Future AAA Reports to Include Breakdown by Energy Type**

Under Minn. Rules 7825.2810, subp. 1 B, utilities' annual automatic adjustment reports must include "billing adjustment amounts, such Kwh, Mcf, Ccf, or Btu, charged customers for each type of energy cost, such as nuclear, gas, coal, purchased power, purchased gas by major component, peak shaving gas, or manufactured gas." This year's reports did not include these breakdowns, and the Department recommended requiring them in the future. Several utilities initially expressed concern about their ability to compile this information, but ultimately concluded they could develop reasonable proxies for energy-type-specific billing adjustment amounts.

The Commission agrees with the Department that this level of detail is required to ensure adequate regulatory oversight of utilities' procurement practices and will require it in future annual filings.

## **III. Action on the Gas Utilities' Filings**

### **A. Reports and True-Up Proposals Accepted and Approved**

The Department examined the gas utilities' annual automatic adjustment reports and their true-up proposals in detail, conducting discovery and initiating discussions with the utilities to clarify their filings. Several filings were clarified, revised, or supplemented in the course of these discussions. The Department's final recommendation was to accept and approve the gas utilities' annual automatic adjustment reports and true-up proposals, as revised and supplemented.

The Commission concurs with the Department, accepts all companies' filings, and approves their automatic adjustment reports and true-up proposals, as revised and supplemented. The reports demonstrate that the filing utilities are in compliance with the statutes, rules, and Commission Orders pertaining to purchased gas adjustments.

### **B. Design-Day Reassessment Required**

The Department recommended requiring all gas utilities except Xcel Energy to re-evaluate their 2003-2004 design days to ensure adequate capacity to meet need in the event of a 24-hour period of minus-25-degree weather. (Xcel appeared to have adequate capacity to meet need under those circumstances.) The Department was concerned because on the peak send-out day of the 2003-2004 heating season, the temperature had been just 15 degrees below zero and the utilities had used 86% of their actual firm entitlements to meet need.

The Department recommended requiring utilities to report in their upcoming demand entitlement filings whether their portfolios would have been adequate to meet firm demand during a 24-hour period of minus-25-degree weather. No one opposed this re-evaluation, which the Commission will require.

### C. Future Automatic Adjustment Filings and Proceedings

In compliance with its responsibilities under the Data Practices Act<sup>5</sup> and in accordance with its commitment to open processes, the Commission will again remind and require all gas utilities to supply specific justification for each item of information for which they claim trade secret status. Companies should take care to limit the designation “trade secret” to words, numbers, or phrases that qualify for protection under the Act and avoid marking related or surrounding material “trade secret.”

Finally, the Commission appreciates the Department’s thorough, comprehensive, and invaluable report on the annual automatic adjustment filings and asks the agency to continue providing the same kinds of information in next year’s report, with the exception of three analyses that need not be repeated: (a) the report on CenterPoint Energy’s cost/benefit analysis of its long-term storage and transportation agreements with NGPL; (b) the report on CenterPoint Energy’s long-term storage contract with Northern Natural Gas Company (Northern); and (c) the summary of associated capacity improvements on Northern’s system.

The Commission would also ask the Department to continue its investigation into utility revenues from pipeline capacity releases and corresponding refunds to customers. This issue has proven troublesome in the past and bears continuing scrutiny. Similarly, the Commission would request that next year’s report include a comparative evaluation of the natural gas utilities’ financial and physical hedging activities, another issue of increasing importance.

Action on individual gas utilities’ filings and true-up proposals is set forth in the ordering paragraphs.

### **ORDER**

1. The Commission hereby accepts the fiscal year 2004 annual automatic adjustment reports as filed, revised, and supplemented by all of the electric utilities except Otter Tail Power as being in general compliance with Minn. Rules 7825.2390 through 7825.2920.
2. The Commission hereby accepts Otter Tail Power’s 2004 annual automatic adjustment reports, including its annual auditor’s report, as filed, revised, and/or supplemented, conditioned on an eventual finding in *In the Matter of Otter Tail Power Company Report on a Call to Ethics Hotline*, Docket No. E-017/M-04-1751, that the issues in that docket are unrelated to Otter Tail’s handling of its fuel clause in this docket.

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<sup>5</sup> Minn. Stat. §§ 13.01 *et seq.*; see also the Commission’s Revised Procedures for Handling Trade Secret and Privileged Data, September 1, 1999.

3. The Commission hereby accepts the compliance filings submitted with the fiscal year 2004 annual automatic adjustment reports as being in general compliance with Commission orders.
4. The Commission hereby varies Minn. Rules 7825.2500 to permit Interstate Electric Power and Light Company – Electric Utility to include credits from sulfur dioxide emission allowances in its fuel clause adjustment. This variance shall expire on the earlier of December 31, 2006 or the resolution of the ongoing industry-wide fuel clause adjustment investigatory docket, *In the Matter of the Commission’s Investigation into the Appropriateness of Continuing to Permit Electric Energy Cost Adjustments*, Docket No. E-999/CI-03-802.
5. The Commission hereby varies Minn. Rules 7825.2500 to permit Interstate Power and Light Company – Electric Utility to include in its fuel clause adjustment, credits for net revenue amounts related to the revenues from steam production and the related costs of fuel used to produce steam for other parties.
6. All electric utilities subject to reporting requirements under Minn. Rules 7825.2390 *et seq.* shall include in their next annual filing reasonable proxies for billing adjustment amounts for each type of energy cost, as required under Minn. Rules 7825.2810, subp. 1 B.
7. The Commission hereby accepts the fiscal year 2004 annual reports as filed, and subsequently amended, by the gas utilities as being complete as to Minnesota Rules 7825.2390 through 7825.2920.
8. All gas utilities shall provide a specific justification for each piece of information for which the designation of trade secret is claimed in their annual reports and true-up filings. Companies shall limit the designation “trade secret” to words, numbers, or phrases that are actually trade secret and shall not designate entire paragraphs or pages which contain the trade secret words, numbers, or phrases.
9. The Department of Commerce is asked to include the same information in its 2005 Report as was included in this Report, with the exception of three analyses that need not be repeated: (a) the report on CenterPoint Energy’s cost/benefit analysis of its long-term storage and transportation agreements with NGPL; (b) the report on CenterPoint Energy’s long-term storage contract with Northern Natural Gas Company (Northern); and (c) the summary of associated capacity improvements on Northern’s system.
10. The Department of Commerce is asked to continue its investigation into utility revenues from pipeline capacity releases and corresponding refunds to customers.
11. The Department of Commerce is asked to include in next year’s report a comparative evaluation of the natural gas utilities’ financial and physical hedging activities.



***Great Plains Natural Gas Company (Great Plains)***

12. The Commission hereby accepts Great Plains' Southern District true-up (Docket No. G-004/AA-04-1479) and authorizes Great Plains to implement its true up, as shown in Department Attachment G6 of the Department's June 8, 2005 Review.
13. The Commission hereby accepts and authorizes Great Plains to implement its proposed true-up for Great Plains' North District (Docket No. G-004/AA-04-1479).
14. Great Plains shall increase its September 1, 2005 true-up balance by \$26,915 for the Southern District to correct for the fiscal year 2003 true-up year revision and shall provide sufficient detail in its schedules to identify the revision.
15. Great Plains shall re-evaluate its 2003-2004 design day to see if its capacity portfolio would have accommodated a 24-hour period of negative 25 degrees and shall report the findings in connection with its upcoming 2005 demand entitlement filing, due November 1, 2005.

***Greater Minnesota Gas, Inc. (Greater Minnesota)***

16. The Commission hereby accepts Greater Minnesota's true-up (Docket No. G-022/AA-04-1480) and authorizes Greater Minnesota to implement its true up, as shown in Department Attachment G5 of the Department's June 8, 2005 Review.
17. Greater Minnesota shall provide its 2004 independent auditor's report when it becomes available.
18. Greater Minnesota shall re-evaluate its 2003-2004 design day to see if its capacity portfolio would have accommodated a 24-hour period of negative 25 degrees and shall report the findings in connection with its upcoming 2005 demand entitlement filing, due November 1, 2005.

***Interstate Power and Light – Gas Utility (Interstate)***

19. The Commission hereby accepts and authorizes Interstate to implement its proposed true-up (Docket No. G-001/AA-04-1477), as shown in Attachment G7 of the Department's June 8, 2005 Review.
20. Interstate shall re-evaluate its 2003-2004 design day to see if its capacity portfolio would have accommodated a 24-hour period of negative 25 degrees and shall report the findings the findings in connection with its upcoming 2005 demand entitlement filing, due November 1, 2005.

***Aquila Networks-PNG (Peoples-MN)***

21. The Commission hereby accepts Peoples-MN's true-ups, Docket No. G-011/AA-04-1474 (Northern-area), G-011/AA-04-1475 (Viking-area), and G-011/AA-04-1476 (Great Lakes-area) and authorizes Peoples-MN to implement its true-ups, as shown in Attachment G8 of the Department's June 8, 2005 Review.
22. Peoples-MN shall re-evaluate its 2003-2004 design day to see if its capacity portfolio would have accommodated a 24-hour period of negative 25 degrees and shall report the findings in connection with its 2005 demand entitlement filing, due November 1, 2005.

***Aquila Networks-NMU (NMU)***

23. The Commission hereby accepts NMU's proposed true-up, Docket No. G-007/AA-03-1473, and authorizes NMU to implement the true-up, as shown in Attachment G9 of the Department's June 8, 2005 Review.
24. NMU shall re-evaluate its 2003-2004 design day to see if its capacity portfolio would have accommodated a 24-hour period of negative 25 degrees and shall report the findings in connection with its 2005 demand entitlement filing, due November 1, 2005.

***CenterPoint Energy Minnegaso (Minnegasco)***

25. The Commission hereby accepts Minnegasco's Northern system true-up (Docket No. G-008/AA-04-1471), and Viking system true-up (Docket No. G008/AA-04-1472), and authorizes Minnegasco to implement its true-ups, as shown in Attachment G10 of the Department's June 8, 2005 Review.
26. Minnegasco shall include balancing revenue of \$24,132 in its Northern true-up filing due September 1, 2005.
27. Minnegasco shall re-evaluate its 2003-2004 design day to see if its capacity portfolio would have accommodated a 24-hour period of negative 25 degrees and shall report the findings in connection with its 2005 demand entitlement filing, due November 1, 2005.

***Xcel Energy – Gas Utility (Xcel)***

28. The Commission hereby accepts Xcel's explanation of how purchased gas expenses will be allocated to Limited Firm Service and Standby Service customers for fiscal years 2004, 2005, and 2006.
29. The Commission hereby accepts Xcel's \$16,289 adjustment to demand billed commodity costs.
30. The Commission hereby accepts Xcel's revised true-up filing (Docket No. G-002/AA-04-1478) and authorizes Xcel to implement its true-up by accepting the true-up

factors presented in Xcel Gas' September 1, 2004 true-up filing along with the revised over- and/or under-recovery balances that are to be carried forward to the September 1, 2005 true-up filing as shown in the Department's August 12, 2005 Response Comments, Attachment 2.

31. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

(S E A L)

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